Rajasthan Rajya Adhikrit Rashan Vikreta Niyojak Sangh, Bikaner vs. State of Raj. & ors.
(S.B.Civil Writ Petition No.2715/06)

Dated:- 28.11.2007

HON'BLE MR.JUSTICE SANGEET LODHA

Mr. S.N. Trivedi, for the petitioner(s).
Mr. B.L. Tiwari, Dy.G.A.

This writ petition has been preferred by the petitioner aggrieved by the proposed allotment of fair price shops in Bikaner district.

The brief facts of the case are that the fair price shops were allotted by the respondents in various wards of the municipal area Bikaner as well as in tehsil Nokha and Sri Kolayatji , district Bikaner under the provisions of Rajasthan Foodgrains & Other Essential Articles(Regulation of Distribution) Order, 1976 (in short "the Order 1976" hereinafter) for sale of food grains and other essential articles. It is alleged that at the time of allotment of the fair price shops, it was decided that on every 2000 units, there shall be a fair price shop. In the regard the decision of the Government was communicated to all the District Collectors vide circular dated 07.05.01, issued by Additional Food Commissioner, Government of Rajasthan, which has been placed on record as Annexure 2. Vide said communication the District Collectors were further informed that while opening new fair price shops this fact may also be kept in

view that, the sugar is distributed only to the families below the poverty line and the lifting of wheat by the families above poverty line is also negligible, therefore, there exists the lack of profitability in fair price shops.

The respondent no.3, District Supply Officer, Bikaner issued an order dated 27.4.06 whereby the programme of proposed meetings of Allotment Advisory Committees for allotment of fair price shops in Bikaner (urban area), Lunkarasar, Nokha (rural area) and Kolayat was notified. The representation made by the petitioner against the proposed allotment of the shops having not been responded by the respondents, the petitioner has preferred this writ petition assailing the validity of the proposed allotment of the shops.

A reply to the writ petition has been filed by the respondents, wherein it is inter alia contended that there is no challenge to the order dated 27.4.06 (Annex.7) in the writ petition. Moreover, the writ petition preferred aggrieved by the notification dated 27.4.06 has become infructuous inasmuch as the competent authority has published a fresh notification dated 8.9.06, whereby the allotment of the 18 fair price shops is proposed in the various wards of Bikaner (urban area), one shop at Khajuwala and 9 at Nokha (rural). It is stated that authorization of certain fair price shop keepers have been cancelled on account of violation of the conditions of authorization letters or they being found indulged in

irregularities and illegalities in distribution of wheat, sugar and kerosene. Consequently, 13 fair price shops have fallen vacant. That apart, 6 fair price shops keepers have surrendered their authorization. The details of those 19 fair price shops with reasons for their closure have been placed on record as Annexure R/3. The respondents have also placed on record the policy decision of the State Government dated 15.11.02 and order dated 04.12.02, governing the allotment of the fair price shops as Annexure R/2 and R/4 respectively. It is contended on behalf of the respondents that the State cannot be restrained from establishing the fair price shops in accordance with law and it is well within the domain of the State Government to take a decision in this regard. The allotments are being made in accordance with law and the existing fair price shop keepers cannot raise any grievance in this regard.

In my considered opinion, the matter with regard to requirement, feasibility and allotment of the fair price shops are to be dealt with by the State Government and this Court cannot intermeddle in such matters unless, the action of the State Government allotting the shops is found to be illegal, arbitrary, unfair or unreasonable. If, certain shops have been closed down for the reasons set out in Annexure R/3 and on that account the proceedings for fresh allotment is initiated by the competent authority, the same cannot be faulted with. Obviously, the allotments shall be made by the State authorities in conformity

with the provisions of Order 1976 and the policy decisions taken by the government time to time in this regard. The existing fair price shop keepers have no right to object to such allotments. No case for interference by this Court in exercise of its extra ordinary jurisdiction under Article 226 of the Constitution of India is made out.

The writ petition is devoid of any merit, it is hereby dismissed. No order as to costs.

(SANGEET LODHA),J.